

Having reviewed the whole evidentiary record filed herein, this Board Member makes the following findings of fact and conclusions of law:

The claimant alleged she suffered bilateral upper extremity injuries as a result of repetitive trauma each and every work day beginning approximately April 16, 2008, through approximately June 23, 2008.

Claimant is a nurse for Wesley Medical Center. She began having pain and discomfort in her wrists in April 2008. Claimant sought treatment on April 16, 2008, with her own physician, Dr. Chris Brunner, due to a cyst on her left hand. On April 18, 2008, Dr. Brunner referred claimant to Dr. Melhorn for an evaluation. On April 24, 2008, claimant was examined and evaluated by Dr. Melhorn due to complaints of pain and discomfort with regard to the hand/wrist with numbness and tingling in the thumb, index, middle, ring and little finger. The doctor diagnosed a mass over the left wrist flexor carpi radialis area which was increasing in size causing the additional pain and discomfort. On May 1, 2008, the doctor conservatively treated claimant's left wrist flexor carpi radialis mass with an injection.

On May 22, 2008, Dr. Melhorn recommended claimant have a nerve test. A nerve conduction test was performed on May 27, 2008, which indicated left carpal tunnel syndrome. On June 22, 2008, Dr. Melhorn changed his diagnosis to carpal tunnel syndrome and recommended a decompression on the left. Claimant returned for a follow-up visit on June 23, 2008, with no improvement due to injections. Claimant advised respondent of her injury and respondent then voluntarily authorized Dr. Melhorn to treat her left hand.

At the preliminary hearing held on September 30, 2008, the claimant sought treatment for her right carpal tunnel syndrome and payment of medical bills in the amount of \$1,059 for the medical treatment claimant received from Dr. Melhorn from April 24, 2008 through June 23, 2008. Respondent agreed to authorize treatment for the right carpal tunnel syndrome but argued the disputed medical bills were for treatment claimant had received for her left upper extremity before she had provided respondent with notice that she had suffered a work-related accident to her left upper extremity.

Initially, the claimant argues that the Board does not have jurisdiction to address the issue raised by respondent upon an appeal from a preliminary hearing. This Board Member agrees.

The respondent neither disputes the compensability of the claim nor timely notice or written claim. This is an appeal from a preliminary hearing. The Board has jurisdiction to review decisions from a preliminary hearing in those cases where one of the parties has alleged the ALJ exceeded his or her jurisdiction.¹ In addition K.S.A. 44-534a (a)(2) limits the jurisdiction of the Board to the specific jurisdictional issues identified. A contention that the ALJ has erred in his finding that the evidence showed medical treatment was for the

¹ K.S.A. 44-551(b)(2)(A).

injury and should be paid is not an argument the Board has jurisdiction to consider. K.S.A. 44-534a grants authority to an ALJ to decide issues concerning the furnishing of medical treatment, the payment of medical compensation and the payment of temporary total disability compensation. Therefore, the ALJ did not exceed her jurisdiction. Accordingly, the Board does not have jurisdiction to address this issue at this juncture of the proceedings.

When the record reveals a lack of jurisdiction, the Board's authority extends no further than to dismiss the action.² Accordingly, respondent and carrier's appeal is dismissed.

By statute, the above preliminary hearing findings and conclusions are neither final nor binding as they may be modified upon a full hearing of the claim.³ Moreover, this review of a preliminary hearing Order has been determined by only one Board Member, as permitted by K.S.A. 2007 Supp. 44-551(i)(2)(A), as opposed to being determined by the entire Board when the appeal is from a final order.⁴

WHEREFORE, it is the finding of this Board Member that the Order of Administrative Law Judge Nelsonna Potts Barnes dated October 1, 2008, remains in full force and effect and the respondent's appeal is dismissed.

IT IS SO ORDERED.

Dated this _____ day of November 2008.

HONORABLE DAVID A. SHUFELT
BOARD MEMBER

c: Lawrence M. Gurney, Attorney for Claimant
Douglas C. Hobbs, Attorney for Respondent and its Insurance Carrier
Nelsonna Potts Barnes, Administrative Law Judge

² See *State v. Rios*, 19 Kan. App. 2d 350, Syl. ¶ 1, 869 P.2d 755 (1994).

³ K.S.A. 44-534a.

⁴ K.S.A. 2007 Supp. 44-555c(k).